

DAVID & BRANDY STEWART
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January 26, 2002

SENT VIA:

☐ E-MAIL TO: Microsoft.atr@usdoj.gov
☒ VIA FACSIMILE COPY TO: (202) 307-1454 or (202) 616-9937
☐ 1ST CLASS MAIL TO:

The Honorable Colleen Kollar-Kotally
U.S. District Court, District of Columbia

c/o Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, D.C. 20530-0001

Re: Microsoft Settlement

Dear Judge Kollar-Kotally:

I have been asked to share some of my feelings relative to the proposed settlement of the *Microsoft v. DOJ* litigation.

I am a CPA with a large accounting firm and consider myself as pro-business. I generally do not advocate government intrusion into the free market system and would prefer that the competitive market place correct any problems. Unfortunately, when one player is too dominant in the market place and aggressive in using its dominance, the competitive market place can not properly function. This appears to be the case with Microsoft. The federal trial court determined that Microsoft was in violation of U.S. antitrust law by virtue of some of its marketing and other practices. This portion of the court's decision was affirmed by the Court of Appeals and was allowed to stand by the U.S. Supreme Court. Whenever violations of antitrust laws are found to be present, reasonable measures must be taken to deter similar conduct in the future and to deal with the harm caused by past actions. From what I understand about the proposed Microsoft settlement, it does not contain reasonable, enforceable measures to accomplish this result. I am particularly concerned that Microsoft has too much discretion concerning its future compliance with some of the important provisions of the settlement agreement – those that would require sharing of source codes with competitors so that compatible products can be developed. Without assurances that Microsoft will no longer engage in anti-competitive behavior, nothing will have been gained by the litigation, and the consumers will continue to be harmed thereby.

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A proper resolution to the case would entail the imposition of appropriate sanctions and conditions of operation. This can only be done by the court following hearings. Adoption of the proposed settlement will not protect the rights of consumers into the future.

Respectfully,

A handwritten signature in cursive script, appearing to read "David Stewart", with a long horizontal flourish extending to the right.

David Stewart

cc: The Honorable Mark Shurtleff, Utah Attorney General